

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street
P.O. Box 9810
Vancouver WA 98668-9810
Phone (360) 397-2375

NOTICE TO PARTIES OF RECORD

Project Name: BFI SUBDIVISION

Case Number: PLD2009-00029, SEP2009-00052

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal is filed with the Board of Clark County Commissioners, 6th floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **October 9, 2009** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and contain the information required under CCC 40.510.030(H), and placed in the following preferred format:

1. Project Name
2. Case Number
3. Name and signature of each petitioner: The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.030(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official.
4. Introduction:
Provide a brief history of the case. This should include a chronology of dates of related applications, cases numbers, and a description of the proposal as it relates to the decision being appealed
5. Standard of Review:
Describe what standard of review (i.e., board's discretion to reverse the examiner's decision) you believe applies to board's review of the alleged errors (e.g., substantial evidence for challenges to findings of fact; de novo review for code interpretation; or, clearly erroneous for issues involving application of code requirements to particular facts).
6. Alleged Errors/Response to Alleged Errors:
Identify the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error (i.e., reference the relevant exhibits and passages, court cases, etc.).

The appeal fee is **\$716**

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **September 25, 2009**

BIF SUBDIVISION
PLD2009-00029; SEP2009-00052
HEARING DATE: 9/10/09

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BIF SUBDIVISION
PLD2009-00029; SEP2009-00052
HEARING DATE: 9/10/09

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**BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III application for a 6-lot single-family clustered residential subdivision on approximately 30 acres zoned R-5 in unincorporated Clark County, Washington.

FINAL ORDER

**BFI Subdivision
PLD2009-00029 & SEP2009-00052**

I. Summary:

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for a 6-lot clustered single-family residential subdivision and related approvals (PLD 2009-00029 & SEP2009-00052) – on approximately 30 acres zoned R-5.

II. Introduction to the Property and Application:

Applicant & Owner BFI Properties, LLC.
P. O. Box 822799
Vancouver, WA 98682

Contact..... Minister & Glaeser Surveying, Inc.
Attn: Chris Avery
2200 E. Evergreen Blvd.
Vancouver, WA 98661

Property Legal Description: Tax Lot 9 (parcel number 168154) located in the Southwest ¼, of Section 4, Township 2 North, Range 3 East of the Willamette Meridian. Street Address: 21605 NE 83rd Street.

Applicable Laws Clark County Code (CCC) Chapter: 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.380 (Storm Water Drainage and Erosion Control), 15.12 (Fire Code), 40.540.040 (Land Division, Subdivisions), 40.610 (Impact Fees), 40.210.020 (Rural Districts, R-5), 40.210.020 (D) (Rural Cluster Development), 40.500 (Procedure), RCW 58.17 (State Platting Law).

The 30-acre site is zoned R-5, which allows single-family residential subdivisions outright, subject to preliminary plat review and approval. The development site consists of a single parcel (parcel number 168154) generally located in the southwest corner of the intersection of NE 83rd Street and NE 217th Avenue. There is one existing dwelling and associated out buildings on the property that will be retained on Lot 3. The property is in the rural area (outside of any urban growth boundary) within the territory of the Proebstel Neighborhood Association, Fire District 5, the Rural 1 Traffic Impact District, and the Evergreen School District. While it is within the service territory of Clark Public Utilities District, the property is not, and will not be, served by public water or sewer.

This development proposes 6 lots clustered so as to retain the majority of the site as undeveloped and undevelopable open space (Ex. 14). Lots 2 through 6 will range from 2.03 acres to 2.26 acres, and Lot 1 will be 19.5 acres. New homes will be served by individual on-site septic systems and wells. Lot 1 also has an archaeological site buffer and at least two small, isolated wetlands.

The application includes the original application and plans (Exs. 5 & 6), a revised preliminary plan (Ex. 14), notes from the April 2, 2009 preapplication conference (Ex. 6, tab 3), a preliminary stormwater design report and plan (Ex. 6, tabs 16 & 17), a traffic profile (Ex. 6, tab 7), a sight distance certification (Ex. 6, tab 15), an archaeology predetermination and survey report (Ex. 6, tabs 11 & 12), a wetland assessment report (Ex. 6, tab 14), a water utility (CPU) review letter (Ex. 6, tab 9), and a SEPA checklist (Ex. 6, tab 8).

III. Summary of the Local Proceeding and the Record:

A preapplication conference for this subdivision was requested on March 12, 2009 and held April 2, 2009 (Ex. 6, tab 3). An application was submitted on June 12, 2009 (Exs. 5 & 6) and deemed fully complete on June 26, 2009 (Ex. 7). From this sequence, this development is deemed vested as of March 12, 2009. Notice of the Type III application and a September 10, 2009 public hearing on the application was mailed to property owners within 500 feet and the Proebstel Neighborhood Association on July 8, 2009 (Exs. 8 & 9). Notices of the application and hearing were also posted on and near the site on July 8, 2009 (Ex. 18). The County received no appeals and one agency comment from the SW Clean Air Agency (Ex. 10) on the SEPA Determination by the July 22, 2009 submission deadline, which is addressed below. Staff issued a comprehensive report on the project on August 26, 2009 (Ex. 19) recommending approval with conditions.

At the commencement of the September 10th hearing, the Hearings Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflicts of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Michael Uduk, County planning staff on the project, Doug Boheman, engineering staff, provided verbal summaries of the project, the staff report and the various agency and departmental comments already in the record. Chris Avery, design engineer with Minister & Glaeser Surveying, Inc., represented the applicant, described the project, explained details, and responded to questions. One neighbor submitted a written comment (Ex. 12) regarding shared driveways and drainage issues. No one else requested an opportunity to testify, and no one requested a continuance or that the record be left open. The Examiner closed the record at the conclusion of the September 10th hearing and took the matter under consideration.

IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any

subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The Examiner adopts the following findings related to issues and criteria that were addressed in the staff report:

LAND USE:

Finding 1 – R-5 Cluster Development: The applicant is proposing a cluster development a 6-lot rural cluster subdivision of approximately 30 acres zoned R-5. The R-5 district allows 5-acre lots but also provides for cluster development whereby housing is developed on smaller lots, leaving a larger piece of the property for agricultural or natural resource use. A cluster development allows the maximum density that would be permitted per the minimum lot area standard in the R-5 district, which provides that one single-family dwelling per 5 acres. The density is based on 110% of the gross area of the site. There are two strategies for achieving the maximum density allowed with a cluster development in the R-5 district. The first strategy, which is not proposed here, allows for the reservation of a large parcel for park or forestry purposes, but requires a management plan. The second strategy, which is proposed here, is a cluster development creating 5 lots of 2+ acres each (Ex. 14) with an approximately 19.5-acre parcel to be developed under the standards in CCC 40.210.020 (D)(3)(c)(2)(b). The larger parcel can be developed with uses permitted in Table 40.210.020-1. The proposal meets the requirements of the R-5 zone for cluster developments.

Finding 2 – Lot dimensions: Lot requirements, setbacks, lot coverage and building height requirements for rural cluster development are set forth in the following tables:

Table 40.210.020-4 - Lot Requirements – Rural Cluster Development					
Lot Type	Zoning District	Minimum Lot Area	Maximum Lot Size	Minimum Lot Width (feet)	Minimum Lot Depth (feet)
Cluster Lot	R-5	1 acre	None	100	140
Remainder Lot	R-5	65% of site	None ²	None	None

Table 40.210.020-5 - Setbacks, Lot Coverage and Building Height – Rural Cluster Development						
Zoning District and Lot Type	Location or Structure Type	Minimum Setbacks			Maximum Lot Coverage	Maximum Building Height (feet)
		Front (feet)	Side (feet)	Rear (feet)		
R-5 Cluster Lots and Remainder Lots	Abutting a cluster lot	20	20	20	N/A	35 (Single-family residential building only)
	Abutting a resource district	200	200	200		
	Agricultural structures	50	50	50		
	Vehicle entry gates or garage door openings	20	20	20		
	All other situations	50	20	50		

Each lot proposed in the revised plan (Ex. 14) contains adequate width and depth; and, could comply with the required minimum lot width and minimum lot depth standards in Table 40.210.020-4, except for Lot 1, which is approximately 19.50 acres. Lots 2 through 6, are each 2+ acres in area, and appear to meet the required minimum lot area standard in Table 210.020-4. Lot 1, which would otherwise have been the remainder lot, but is included as a parcel in the subdivision, is approximately 19.50 acres (65% of the total 30 acres). The Examiner finds that this proposal meets the dimensional requirements in Table 40.210.020-4, and no condition is required. Building envelopes for all lots shall be shown on the final plat demonstrating compliance with the setback requirements in Table 40.210.020-5. See Condition D-1a

Finding 3 – Cluster development design standards: With rural cluster development, CCC 40.210.020(D)(5) requires the following design standards:

- a. No entryway treatments, monument or other permanent development signs are permitted. This standard does not prohibit the installation of landscaping and screening along the frontage of a cluster development outside of the public right of way.
- b. Sight-obscuring fences of any height are not permitted within 50 feet of the public right-of-way, nor along cluster lot lines adjacent to the remainder lot. Where installed, sight-obscuring fences should be at least 50% opaque.
- c. The applicant shall preserve any existing historic rural features as part of the cluster development. These features include, but are not limited to rock walls, fences, functional and structurally safe farm buildings, monuments and landscape features.

The applicant shall design the cluster development to comply with the design guidelines and standards in CCC 40.210.020(D)(5) prior to final plat recording. See Condition D-1b.

Finding 4 – Landscaping: CCC 40.210.020(D)(6) sets forth the landscaping and screening standards that apply to this cluster development and requires landscaping within the developed portion of the cluster lots to reduce the visibility of the development from the public right-of-way, and to provide a filtered view such that rural cluster development does not dominate the rural environment. The applicant shall provide landscaping that meets the minimum standards in CCC 40.210.020(D)(6). See Condition A-6.

Finding 5 – Road easement: The county's adopted arterial atlas map shows a county road easement running diagonally north/south through Lot 1 and a portion of Lot 6. CCC 40.210.020(D)(3)(c)(1) requires the remainder parcel to be contiguous, but that fragmentation of the parcel by public or private road easements and/or building sites shall not occur unless no other alternative exists. Removal of such a road easement from the arterial atlas requires legislative action by the Board of Commissioner. Instead of pursuing that cumbersome process, the applicant has proposed and staff has accepted, a relocation of the easement to be 30 feet wide running along the west boundary (Ex. 14). Community Planning Staff reports (Ex.

15) that this approach and a building envelope for Lot 1 will ensure that permanent structures are not located within any potential future road alignment. In general a road easement along the west property line of the site will protect the future transportation corridor and meet the intent of the Arterial Atlas. Staff reports, however (Ex. 15), that the applicant's plan provides only a 30-foot wide easement along the west boundary and does not show a building envelope for in Lot 1. A quick review of the revised plan (Ex. 14), however, shows there is a building envelope in Lot 1, and staff now appears satisfied with a 30-foot wide easement. In any event, the final plat shall show building envelopes to ensure that home construction and related improvements do not encroach upon the roadway easement and that required R-5 setbacks are met. See Condition D-1a.

ARCHAEOLOGY:

Finding 1: The applicant provided an archaeology predetermination and survey report (Ex 6, tabs 11 & 12). These reports, along with the designated "no disturbance" archaeological buffer shown on the final plat and the standard conditions satisfy the County's archaeological protection requirements. See Conditions A-1a & D-9a.

WETLAND:

Finding 1: The site's wetland boundaries, ratings, and buffer requirements were confirmed under a previously issued wetland determination (WET2009-00042) and are shown correctly on the Preliminary Plat (Ex. 14). The development envelope on the remainder lot meets the requirements of CCC 40.450.030.G.

TRANSPORTATION:

Finding 1 - Onsite Road: According to Clark County's Arterial Atlas a future Rm-2 Rural Minor Collector will bisect the site diagonally from southeast to northwest. This is a future alignment to connect NE 212th Avenue to NE 217th Avenue and provide a north-south corridor for the anticipated urbanization and build out of this area. At one time, a previous Clark County Arterial Atlas had shown an alignment straddling the site's west boundary and then continuing south straddling property lines of other parcels. At this time the exact alignment of this connection is not known; however, the design of the future connection will most likely include horizontal curves meeting the specifications in CCC Table 40.350.030-2. The applicant proposes to convey to Clark County a 30-foot wide easement along the west boundary of the site for public ingress and egress and to show a building envelope for Lot 1 on the final plat that protects this future right-of-way alignment from all development. See Plat Note D-10a.

Finding 2 - Access Management: Driveways shall have a minimum width of 12 feet of clear unobstructed all weather driving surface and an overhead clearance of 13 feet, 6 inches. See Condition E-2a.

Finding 3 - Frontage Roads: The portion of NE 217th Avenue, abutting the site on the east and the portion of NE 83rd Street, abutting the site on the north, are both designated as Rural Local Access roads. The minimum requirements for these road sections are a full right-of-way width of 50 feet and 20-foot wide paved section. The existing road sections as stated either meet or exceed these minimum requirements.

Finding 4: Consistent with CCC 40.350.030(B)(7)(c), the driveways shall be paved from the edge of the public road to the right-of-way or 20 feet from the edge, whichever is greater. See Condition A-2a.

Finding 5 - Sight Distance: The applicant provided a signed and stamped sight distance certification (Ex. 6, tab 15), certifying that Sterling Design, Inc. measured the available sight distance along both NE 83rd Street and onto NE 217th Avenue and found adequate sight distance for all driveway locations with appropriate vegetation maintenance and removal. See Condition E-2b.

Finding 6 - Cul-de-sacs and Turnarounds: An approved turnaround is required for driveways longer than 300 feet at the time of building permit issuance. See Condition E-2c.

TRANSPORTATION CONCURRENCY:

Public Works Transportation Concurrency staff reviewed the application and concluded there were no transportation concurrency issues with this application.

STORMWATER:

Finding 1 – Applicability: The Stormwater and Erosion Control Ordinance CCC chapter 40.380 applies to development activities that result in 5,000 sf or more of new impervious area within the rural area and all land disturbing activities, except those exempt by CCC 40.380.030(A). The project will create more than 5,000 sf of new impervious surface, involves platting of single-family residential subdivision, and it is a land disturbing activity not exempt in CCC 40.380.030(A). Therefore, this development is subject to and shall comply with the Stormwater and Erosion Control Ordinance, CCC chapter 40.380. The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Finding 2 - Stormwater Proposal: The design of the proposed water quality and quantity control facilities is based on future improvements on each parcel being constructed to direct all stormwater drainage to shallow lot line swales that will convey and treat stormwater drainage as it flows to the quantity control facility. As required by CCC chapter 40.380, the proposed lot line swales are sized to treat peak discharge from the new improvements during 70% of the 2 year storm event, and the quantity control facility is sized to limit the flows off the site to half the pre-developed 2 year flows and to match the 10 and 100 year pre-developed flows.

Finding 3 - Site Conditions and Stormwater Issues: The property is approximately 30 acres in area with slopes of 0-5% over 100% of the parcel. The site slopes from the northeast corner of the property to the southwest corner with a slight steady grade of almost 1%. Clark County has adopted a policy concerning rural projects and requires that new driveways and roof areas be accounted for even though the details are not known at the time of subdivision approval. To meet the requirements of CCC chapter 40.380, the following conservative assumptions were made regarding new impervious surfaces that may be created in the future in this development: new home roof area of 3,000 sf, new detached shop roof area of 2,400 sf, and new driveway/RV pad area of 2,000 sf. National Resources conservation service (NRC S, formerly SCS) mapping shows the site to be underlain by Hesson Clay and

Hockinson Loam (HcB and HuB), which have low permeability. It is likely that most of the existing runoff on the site and from the adjacent properties slowly flows across the surface of the land prior to draining into or off of the site. The proposed stormwater flows do not rely on any infiltration for quantity control of the developed stormwater flows. According to CCC 40.380.040(B)(2), all development activities shall prepare a final stormwater control plan, conduct an analysis of off-site water quality impacts resulting from the development, and mitigate for those impacts. This project shall perform an offsite analysis extending a minimum of ¼ mile downstream from the development. See condition A-4a.

FIRE PROTECTION:

Finding 1 – Fire Marshal Review: This application was reviewed by the Fire Marshal's Office, which provided comments and recommended conditions of approval (Ex. 16). The developer shall fulfill or otherwise comply with those conditions. Where there are difficulties in meeting these conditions or if additional information is required, the developer should contact the Fire Marshal's office immediately.

Finding 2 – Building Construction: Building construction occurring pursuant to this proposal shall comply with the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Condition B-1c.

Finding 3 – Fire Flow: This development requires fire flow in the amount of 500 gallons per minute supplied for 30 minutes duration. Information from the water purveyor indicates that the required fire flow is not available within 1,000 feet of the property line. Fire hydrants are not required. Alternative construction methods may be used to satisfy the fire flow requirement, which will require 30-foot rear and side setbacks and a class A rated roof. An automatic fire sprinkler system may be required for new residential structures exceeding 3,600 sf of inhabitable space. See Condition D-4a.

Finding 4 - Fire Apparatus Access: The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standards. The developer shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. See Condition D-4b.

Finding 5 - Fire Apparatus Turnarounds: All new private driveways longer than 300 feet shall be provided with an approved turnaround at the terminus. Turnouts shall be provided at intervals of 500 feet or less, so that no portion of the driveway is farther than 300 feet from an approved turnaround or turnout. See Condition D-4c.

WATER & SEWER SERVICE:

Finding 1: Each lot in this development will be served by an individual well and on-site septic system. See Condition D-3.

Finding 2: Individual septic systems are proposed to serve this development. A "Health Department Evaluation Letter" has been submitted that confirms the Health Department conducted an evaluation of the site and determined there were two existing wells and septic systems located on the site (Ex. 6, tab 10). Site evaluations

for septic are required for all lots. The locations of all septic systems and water wells serving all dwellings in this subdivision shall be shown on the final plat, along with the corresponding protective buffer zones. The developer shall provide a Health Department Final Approval Letter confirming that all existing wells and/or septic systems have been inspected and approved by the Health Department. See Condition A-7.

IMPACT FEES:

Finding 1 - Impact Fees: The site is not located in a park improvement district, but is within the Evergreen School District and the Rural 1 Transportation District. All new residential units constructed in this development (5 new dwellings) will impose new service demands on the local schools and transportation system. Therefore, all new residential units in this development are subject to the following impact fees authorized by CCC chapter 40.610 to defray the cost of serving this new demand, payable at the time of building permit issuance:

- (1) Traffic impact fee (TIF) for the Rural Transportation District, which has a TIF of \$2,749.47 per lot (\$1,403.23 local fee and \$1,347.24 regional fee)
- (2) School impact fee (SIF) for the Evergreen School District, which has a SIF of \$6,818 per lot.

All impact fees due shall be paid prior to the issuance of a building permit for each lot. If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate. See Conditions D-5d & E-1.

SEPA DETERMINATION

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval listed below. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Determination of Nonsignificance for this project on July 8, 2009 (Ex. 9). One timely comment and no appeals were received by the comment and appeal deadline of July 22, 2009. That comment is adequately addressed in findings and/or conditions of approval; therefore, the SEPA determination is final.

V. Decision and Conditions:

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the developer's proposal, the preliminary plat and related plans (Exs. 5 & 6) as subsequently revised (Ex. 14). This approval is granted subject to the requirements that the developer, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

A	Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 Final Construction Plan:** The developer shall submit and obtain County approval of a final construction plan in conformance with CCC chapter 40.350 and the following additional requirements:
- a.A Archaeology - A note shall be placed on the face of the final plat and construction plans as follows: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
 - b. Wetland Plan: The wetland and buffer boundaries shall be shown on the face of the Final Plat and Final Construction Plans, along with a note that refers to the separately recorded conservation covenant.
- A-2 Final Transportation Plan/On-Site:** The developer shall submit and obtain County approval of a final transportation plan designed in conformance with CCC chapter 40.350 and the following additional requirement:
- a. The driveways shall be paved from the edge of the public road to the right-of-way or 20 feet from the edge, whichever is greatest in accordance with CCC 40.350.030(B)(7)(c). See Transportation Finding 4.
 - b. Joint driveways (driveways serving more than one lot) shall be constructed and shown on the final construction plans.
- A-3 Final Transportation Plan/Off Site (Concurrency):** The developer shall submit and obtain County approval of a final transportation design plan in conformance with CCC chapter 40.350.
- A-4 Final Stormwater Plan:** The developer shall submit and obtain County approval of a final stormwater plan for on and off-site facilities (as applicable), designed in conformance with CCC chapter 40.380 and the following additional requirement:
- a. The developer shall perform an offsite analysis extending a minimum of ¼ mile downstream from the development and provide mitigation for stormwater runoff. See Stormwater Finding 3.
- A-5 Erosion Control Plan:** The developer shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC chapter 40.380.
- A-6 Final Landscape Plan:** The developer shall submit and obtain county approval of final landscape plan consistent with CCC chapter 40.320, the approved preliminary landscape plan, and CCC 40.210.020(D)(6) (Landscaping Standards for Cluster Development). See Land Use Finding 4.

A-7 Health Department Review: Submittal of a "Health Department Project Evaluation Letter" is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, it should also specify the timing of when those activities must be completed (e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy), and approved by the Health Department. See Water and Sewer Service Finding 2.

A-8 Excavation and Grading: All excavation and grading shall be performed in compliance with CCC Chapter 14.07.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

B-1 Pre-Construction Conference - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County; and,

- a. Prior to construction, demarcation of wetland and/or buffer boundaries shall be established, *i.e.* sediment fence.
- b. Prior to construction, demarcation of existing septic and water well systems, and underground tanks shall be established.
- c.B Building Construction: Building construction occurring pursuant to this proposal shall comply with the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Fire Protection Finding 2.

B-2 Erosion Control - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

B-3 Erosion Control - Erosion control facilities shall not be removed without County approval.

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/land division plan and the following conditions of approval:

C-1 Wetlands and Buffers: The developer shall erect a permanent physical demarcation of the wetland boundaries and buffers in a manner approved by the Development Services Manager, *i.e.* fencing, hedgerows, berms etc., and

posting of approved signs on each lot or every 100 feet of the boundary, which ever is less.

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

D-1 Land Use:

- a. The final plat shall show building a envelope on each lot with setbacks that meet the minimum standards in Table 40.210.020-5 (Setbacks, Lot Coverage and Building Height – Rural Cluster Development). See Land Use Findings 2 and 5
- b. The developer shall design the cluster development to comply with the design guidelines and standards in CCC 40.210.020(D)(5) prior to final plat recording. See Land Use Finding 3.

D-2 Health Department Signature Requirement – The Health Department is required to sign the final plat if wells or septic systems are proposed.

D-3 On-Site Water Wells and Sewage System Requirements - For on-site water wells and sewage systems, the following requirements shall be met:

- a. A 100-foot radius of protection for any wells shall be shown on the final plat map and be located within the boundaries of the land division;
- b. The location of all existing wells (in use, not in use or abandoned) shall be indicated on the final plat map;
- c. Each on-site sewage system shall be on the same lot it serves;
- d. Test hole locations corresponding to the designated treatment sites shall be surveyed and indicated on the final plat map;
- e. No public or private easements or rights-of-way shall be extended through the approved, reserve or existing on-site sewage system sites;
- f. Provisions shall be made to prevent flow or accumulation of surface water over the area where an on-site sewage system is located;
- g. A copy of the County approved final drainage plan shall be submitted for review; and,
- h. All lots shall have a current approved septic system site evaluation or septic system permit. Should either be allowed to expire, subsequent approval of an on-site sewage treatment system cannot be assured and, therefore, the Health Department will not sign the final plat.

D-4 Fire Marshal Requirements: The developer shall implement all of the conditions recommended by the Fire Marshal, including the following:

- a. Fire Flow: This development requires fire flow in the amount of 500 gallons per minute supplied for 30 minutes duration. Fire hydrants will not be required. Alternative construction methods may be used to satisfy the fire flow requirement, which will require 30-foot rear and side setbacks and a class A rated roof. An automatic fire sprinkler system may be required for new residential structures exceeding 3,600 sf of inhabitable space. See Fire Protection Finding 3.
- b. Fire Apparatus Access: The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standards. The developer shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. See Fire Protection Finding 4.
- c. Fire Apparatus Turnarounds: All new private driveways longer than 300 feet shall be provided with an approved turnaround at the terminus. Turnouts shall be provided at intervals of 500 feet or less, so that no portion of the driveway is farther than 300 feet from an approved turnaround or turnout. See Fire Protection Finding 5.

D-5 Developer Covenant – A “Developer Covenant to Clark County” shall be submitted for recording that includes the following covenants:

- a. Critical Aquifer Recharge Areas: “The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection.”
- b. Erosion Control - “Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction.”
- c. Land Near Agricultural Resources: “Land owners and residents are hereby notified that this plat is located within 500 feet of lands zoned agriculture (AG-20) or is in current use under RCW Chapter 84.34. Therefore, the subject property is located within or near designated agricultural lands, on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.”

- d. **Impact Fees:** "In accordance with CCC chapter 40.610, the following School (SIF) and Traffic (TIF) Impact Fees shall be paid for each of the five new dwellings in this subdivision at the time building permits are issued:

- SIF of \$6,818 per dwelling for Evergreen School District;
- TIF of \$2,749.47 per dwelling for Rural 1 Transportation Impact Fee area (\$1,403.23 local fees and \$1,347.24 regional fees).

The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated 04/03/2009, and expiring on 04/03/2012. Impact fees for permits applied for more than three years following plat approval shall be recalculated using the then-current regulations and fees schedule."

- D-6 **Addressing** - At the time of final plat, existing residence(s) that will remain may be subject to an address change. Addressing will be determined based on point of access.
- D-7 **Verification of the Installation of Required Landscape:** Prior to approval of a final plat, the developer shall provide verification in accordance with CCC 40.320.030(B) that the required landscaping has been installed in accordance with Condition A-6.
- D-8 **Wetlands:**
- a. The wetland and buffer boundaries shall be delineated on the face of the Final Plat.
 - b. A conservation covenant shall be submitted for recording with the County Auditor that runs with the land and requires that the wetlands and buffers remain in their natural state.
- D-9 **Plat Notes** - The following notes shall be placed on the final plat:
- a.A **Archaeology:** "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
 - b. **Building Envelopes:** "Development shall be restricted to within the designated building envelopes. Any development activity or ground disturbance outside of the building envelopes shown on the final plat may require an additional archaeological predetermination survey of the impacted area."
 - c.S **Septic Systems:** "The approved, initial, reserve, and/or existing sewage system sites shall be protected from damage due to development. All sites shall be maintained so they are free from encroachment by buildings and not be subject to vehicular traffic or other activity which would adversely affect the site or system function."

- d. Wetland Covenants: "Clark County Wetland Protection Ordinance (Clark County Code Chapter 40.450) requires wetlands and wetland buffers to be maintained in a natural state. Refer to Conservation Covenant (Ref #) recorded with the Clark County Auditor for limitations on the maintenance and use of the wetland and wetland buffer areas identified on the face of this plat."
- e. Wetland Development Envelopes: "No clearing or development activities shall occur outside the development envelopes shown on the face of this plat unless the activities are exempt from, or approved under, the provisions of the Clark County Wetland Protection Ordinance (CCC chapter 40.450). Other building setbacks may apply within the development envelopes"
- f. Utilities: "An easement is hereby reserved under and upon the exterior 6 feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior 6 feet along the front boundary lines of all lots adjacent to public streets."
- g. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC chapter 40.350."

D-10 Transportation - Easements and Restrictions: The final plat shall contain required language to create a 30 foot wide public ingress and egress easement along the site's west boundary and create a building envelope for Lot 1 that will be outside any Rural Minor Collector alignments meeting the intent of Clark County's Arterial Atlas. See Transportation Finding 1.

E	Building Permits
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	Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

E-1 Impact Fees – All new dwellings in this development (5 new dwellings) are subject to the following impact fees authorized by CCC chapter 40.610 to defray the cost of serving this new demand. The developer shall pay the following impact fees at the time of building permit issuance:

- (1) Traffic impact fee (TIF) for the Rural 1 Transportation District, which has a TIF of \$2,749.47 per lot
- (2) School impact fee (SIF) for the Evergreen School District, which has a SIF of \$6,818 per lot.

If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate.

E-2 Transportation Improvements (driveways): The following transportation improvements related to driveways shall be in place or otherwise constructed by the time of building permit issuance:

- a. Driveways shall have a minimum width of 12 feet of clear unobstructed all weather driving surface and an overhead clearance of 13 feet, 6 inches. See Transportation Finding 2.
- b. The developer shall provide the necessary vegetation maintenance and removal in order achieve the required sight distance at all driveways. See Transportation Finding 5.
- c. An approved turnaround is required for driveways longer than 300 feet at the time of residential building permit. See Transportation Finding 6.

F	Occupancy Permits Review & Approval Authority: Building
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Prior to issuance of an occupancy permit, the following conditions shall be met:

None


G	Development Review Timelines & Advisory Information
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- G-1 Land Division** - Within 5 years of preliminary plan approval, the developer shall submit a Fully Complete application for Final Plat review, after which the preliminary plat approval shall automatically expire.
- G-2 DOE Stormwater Permit** - A stormwater permit from the Department of Ecology (DOE) is required if both of the following conditions occur:
 - a. The development disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND
 - b. There is a possibility that stormwater could run-off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or multiple phases will count toward the 1-acre threshold. This applies even if the developer is responsible for only a small portion (less than one acre) of the larger project planned over time. The developer shall Contact the DOE for further information.

- G-3 Building and Fire Safety:** Building and Fire, Life, and Safety requirements shall be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or developer to insure that Building Safety and Fire Marshal requirements are met. Land use decisions do not waive any building or fire code requirements.

Date of Decision: September 25, 2009.

By: 
Daniel Kearns,
Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval, if any, are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

Notice of Appeal Rights

An appeal of any aspect of the Hearings Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing or submitted written testimony prior to or at the public hearing on this matter.

Any appeal of the final land use decisions shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668 within 14 calendar days from the date the notice of final land use decision is mailed to parties of record.




Any appeal of the Land Use Hearings Examiner's final land use decision shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 18.600.100A) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must also explain why such evidence should be considered, based on the criteria in subsection 18.600.100(D)(2); and

5. A check in the amount of \$716 (made payable to the Clark County Board of County Commissioners) must accompany an appeal to the Board.

TAX LOT: 5
SERIAL NUMBER: 158154-000
SITE ADDRESS: 21505 NE 83RD ST
AREA: 30.00 ACRES OR 1,306,814 SQ FT
ZONING: R-5
COMPREHENSIVE PLAN DESIGNATION: R-5
PERMITS CALCULATION: 10=33

[illegible]

SYMBOL DATA:	
	ENGINEERING: ADVISORY BOARD
	CONTRACTING MGMT.
	CONTRACTING SUPPLYING SYSTEM

CONTACT:
CHRIS AVERY
MANAGER-GLASS SURVEYING, INC.
2200 E. EVERGREEN BLVD.
YANCOVER, WA 98661
(360) 694-3313 FAX (360) 694-8300
www.AveryGlass.com

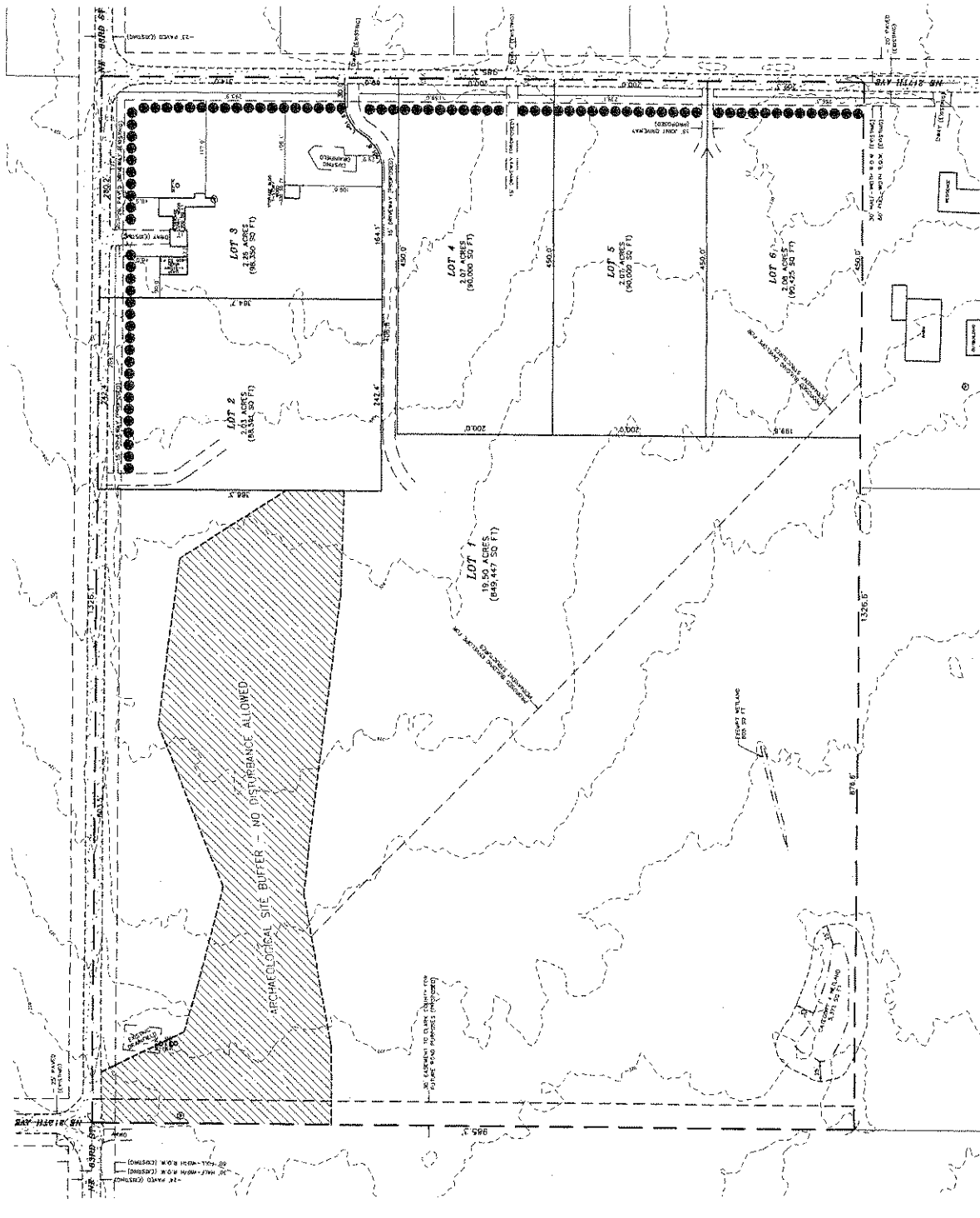
PROPOSED DEVELOPMENT PLAN
BFI SUBDIVISION

IN A PORTION OF THE
SW 1/4 OF SECTION 04, T. 2 N., R. 3 E., W.M.,
OF SISKIYOU COUNTY, WASHINGTON

JOB NO. 09-020
DRAWING DATE: 08-05-09
DRAWING FILE: 09-020R-SUBMITT0-REVISED

SHEET 1 OF 1

8/10/09
RECEIVED





HEARING EXAMINER EXHIBITS

APPLICATION: BFI SUBDIVISION

CASE NUMBERS: PLD2009-00029; SEP2009-00052

Hearing Date: September 10, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	6/12/09	Applicant, Minister & Glaeser Surveying, Inc.	Proposed Development Plan, Preliminary Stormwater Plan
6	6/12/09	Applicant, Minister & Glaeser Surveying, Inc.	<ol style="list-style-type: none"> 1. Table of Contents 2. Application Form 3. Preapplication Conference Report 4. Developer's GIS Packet 5. Project Narrative 6. Sales History 7. Traffic Profile 8. SEPA Checklist 9. Water Utility Review 10. Health Department Development Review 11. Archaeological Predetermination 12. Archaeological Survey Report 13. DAHP Confirmation Email 14. Wetland Assessment Report 15. Sight Distance Certification 16. Preliminary Stormwater Design Report 17. Preliminary Stormwater Plan 18. Preliminary Boundary Survey 19. Proposed Development Plan
7	6/26/09	CC Development Services	Fully Complete Determination
8	7/8/09	CC Development Services	Affidavit of Mailing Public Notice
9	7/8/09	CC Development Services	Notice of Development Review Application (Type III) and Public Hearing
10	7/21/09	SW Clean Air Agency	Agency Comments
11	7/22/09	Doug Boheman, PW	Comments Re: Arterial Atlas

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
12	7/23/09	Jeff & Jennifer Mathena	Public Comments
13	7/28/09	CC Development Services	Early Issues Re: Road Easement
14	8/10/09	Applicant – Chris Avery	Revised Plat and Narrative
15	8/11/09	CC Development Services	Notice of Public Hearing for Sept 10, 2009
16	8/12/09	CC Development Services	Fire Marshal Review
17	8/20/09	CC Community Planning	Road easement
18	8/10/09	Applicant – Chris Avery	Notice Posting
19	8/26/09	CC Development Services	Type III Development & Environmental Review, Staff Report & Recommendation Written by Michael Uduk
20	8/26/09	CC Development Services	Affidavit of Posting Public Notice
21	9/10/09	CC Development Services	Pictures of Power Point Presentation

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810